

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

195I0102

## HOUSE BILL NO. 1124

Introduced by: Representatives Pederson (Gordon) and Lintz and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to increase certain sales and use taxes and allocate revenue  
2 for education and property tax reduction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-2 be amended to read as follows:

5 10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a  
6 retailer, a tax of ~~four~~ five percent upon the gross receipts of all sales of tangible personal  
7 property consisting of goods, wares, or merchandise, except as taxed by § 10-45-3 and except  
8 as otherwise provided in this chapter, sold at retail in the State of South Dakota to consumers  
9 or users.

10 Section 2. That § 10-45-5 be amended to read as follows:

11 10-45-5. Tax on receipts from specific enumerated businesses and services. There is imposed  
12 a tax at the rate of three percent upon the gross receipts of any person from engaging in the  
13 business of leasing farm machinery or irrigation equipment used for agricultural purposes and  
14 ~~four~~ five percent upon the gross receipts of any person from engaging or continuing in any of the  
15 following businesses or services in this state: abstracters; accountants; architects; barbers; beauty  
16 shops; bill collection services; blacksmith shops; car washing; dry cleaning; dyeing;



1 exterminators; garage and service stations; garment alteration; cleaning and pressing; janitorial  
2 services and supplies; specialty cleaners; laundry; linen and towel supply; membership or entrance  
3 fees for the use of a facility or for the right to purchase tangible personal property or services;  
4 photography; photo developing and enlarging; tire recapping; welding and all repair services;  
5 cable television; and rentals of tangible personal property except leases of tangible personal  
6 property between one telephone company and another telephone company, motor vehicles as  
7 defined by § 32-5-1 leased under a single contract for more than twenty-eight days and mobile  
8 homes ~~provided, however,~~ However, that the specific enumeration of businesses and professions  
9 made in this section does not, in any way, limit the scope and effect of § 10-45-4.

10 Section 3. That § 10-45-5.3 be amended to read as follows:

11 10-45-5.3. There is imposed, at the rate of ~~three~~ four percent, an excise tax on the gross  
12 receipts of any person engaging in oil and gas field services (group no. 138) as enumerated in  
13 the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division  
14 of the Office of Management and Budget, Office of the President.

15 Section 4. That § 10-45-6 be amended to read as follows:

16 10-45-6. There is hereby imposed a tax of ~~four~~ five percent upon the gross receipts from  
17 sales, furnishing, or service of gas, electricity, and water, including the gross receipts from such  
18 sales by any municipal corporation furnishing gas, and electricity, to the public in its proprietary  
19 capacity, except as otherwise provided in this chapter, when sold at retail in the State of South  
20 Dakota to consumers or users.

21 Section 5. That § 10-45-6.1 be amended to read as follows:

22 10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed on amounts paid for  
23 local telephone services, toll telephone services, and teletypewriter services, a tax of ~~four~~ five  
24 percent of the amount so paid. The taxes imposed by this section shall be paid by the person

1 paying for the services. If a bill is rendered the taxpayer for local telephone service or toll  
2 telephone service, the amount on which the tax with respect to such services shall be based shall  
3 be the sum of all charges for such services included in the bill; except that if a person who  
4 renders the bill groups individual items for purposes of rendering the bill and computing the tax,  
5 then the amount on which the tax for each such group shall be based shall be the sum of all items  
6 within that group, and the tax on the remaining items not included in any such group shall be  
7 based on the charge for each item separately. If the tax imposed by this section with respect to  
8 toll telephone service is paid by inserting coins in coin operated telephones, the tax shall be  
9 computed to the nearest multiple of five cents, except that, where the tax is midway between  
10 multiples of five cents, the next higher multiple shall apply. The tax so paid shall be remitted at  
11 the same time as the sales tax imposed by this chapter.

12 Section 6. That § 10-45-6.2 be amended to read as follows:

13 10-45-6.2. There is hereby imposed a tax of ~~four~~ five percent upon the gross receipts of  
14 mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that  
15 originate and terminate in the same state and are billed to a customer with a place of primary use  
16 in this state. Notwithstanding any other provision of this chapter and for purposes of the tax  
17 imposed by this section, the tax imposed upon mobile telecommunication services shall be  
18 administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

19 Section 7. That § 10-45-8 be amended to read as follows:

20 10-45-8. There is imposed a tax of ~~four~~ five percent upon the gross receipts from all sales  
21 of tickets or admissions to places of amusement and athletic contests or events, except as  
22 otherwise provided in this chapter.

23 Section 8. That § 10-45-70 be amended to read as follows:

24 10-45-70. There is imposed a tax of ~~four~~ five percent on the gross receipts from the

1 transportation of tangible personal property. The tax imposed by this section shall apply to any  
2 transportation of tangible personal property if both the origin and destination of the tangible  
3 personal property are within this state.

4 Section 9. That § 10-45-71 be amended to read as follows:

5 10-45-71. There is imposed a tax of ~~four~~ five percent on the gross receipts from the  
6 transportation of passengers. The tax imposed by this section shall apply to any transportation  
7 of passengers if the passenger boards and exits the mode of transportation within this state.

8 Section 10. That § 10-46-2.1 be amended to read as follows:

9 10-46-2.1. For the privilege of using services in South Dakota, except those types of services  
10 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal  
11 to ~~four~~ five percent of the value of the services at the time they are rendered. However, this tax  
12 may not be imposed on any service rendered by a related corporation as defined in subdivision  
13 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4) or on any  
14 service rendered by a financial institution as defined in subdivision 10-43-1(4) for use by a related  
15 corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the term,  
16 related corporation, includes a corporation which together with the financial institution is part  
17 of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on January 1,  
18 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C.  
19 § 1563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the  
20 purpose of this chapter, services rendered by an employee for the use of his employer are not  
21 taxable.

22 Section 11. That § 10-46-2.2 be amended to read as follows:

23 10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal  
24 property in this state at the rate of ~~four~~ five percent of the rental payments upon the property.

Section 12. That § 10-46-57 be amended to read as follows:

10-46-57. There is imposed a tax of ~~four~~ five percent on the privilege of the use of any transportation of tangible personal property. The tax imposed by this section shall apply to any transportation of tangible personal property if both the origin and destination of the tangible personal property are within this state.

Section 13. That § 10-46-69 be amended to read as follows:

10-46-69. There is hereby imposed a tax of ~~four~~ five percent upon the privilege of the use of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

Section 14. That § 10-46-58 be amended to read as follows:

10-46-58. There is imposed a tax of ~~four~~ five percent on the privilege of the use of any transportation of passengers. The tax imposed by this section shall apply to any transportation of passengers if the passenger boards and exits the mode of transportation within this state.

Section 15. That § 10-58-1 be amended to read as follows:

10-58-1. There is imposed upon owners and operators a special amusement excise tax of ~~four~~ five percent of the gross receipts from the operation of any mechanical or electronic amusement device.

Section 16. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as follows:

Each school district is entitled to five hundred dollars per student based on the average daily membership of the school district. Payments made pursuant to this section shall be made in

1 twelve monthly installments on or about the thirtieth of each month. After the payment is made  
2 to each school district pursuant to this section, the additional sales and use tax revenue received  
3 by the state pursuant to the rate increase imposed by this Act shall be deposited in the property  
4 tax reduction fund.

5 Section 17. The provisions of this Act are repealed on June 30, 2005.